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10 Attorneys for Plaintiffs
11 WENDY WHEATON and
12 TOMMY PHIPPS, SR.

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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 WENDY WHEATON, an individual;
18 TOMMY PHIPPS SR., an individual,

19 CASE NO.: 2:16-cv-2308

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**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

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DEMAND FOR JURY TRIAL

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15 PUBLIC BROADCASTING SERVICE,
16 a District of Columbia corporation;
17 WORLD OF SURROGACY, INC., a
18 Maryland corporation; CRYSTAL
19 TRAVIS, an individual; and DOES 1-
20 10,

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Defendants.

1 Plaintiffs Wendy Wheaton (“Wheaton”) and Tommy Phipps, Sr. (“Phipps”)
2 (collectively “Plaintiffs”), by and through their attorneys of record allege against
3 Defendants Public Broadcasting Service (“PBS”), World of Surrogacy, Inc.
4 (“WOS”), Crystal Travis (“Travis”), and DOES 1-10 inclusive (collectively
5 “Defendants”), the following:

NATURE OF THE ACTION

8 1. This is a civil action for copyright infringement under the Copyright
9 Act of the United States, 17 U.S.C. § 101, *et seq.*

THE PARTIES

2 2. Plaintiff Wheaton is an individual residing in Sherman Oaks,
3 California.

14 3. Plaintiff Phipps is an individual residing in Sherman Oaks, California.

15 4. On information and belief, Defendant Travis is an individual residing
16 in Laurel, Maryland.

17 5. On information and belief, Defendant WOS is a company organized
18 under the laws of the State of Maryland and has a principal place of business at 9624
19 Hadleigh Court, Laurel, Maryland 20723.

20 6. On information and belief, Defendant PBS is a company organized
21 under the laws of the District of Columbia and has its principal place of business at
22 2100 Crystal Drive, Arlington, Virginia 22202.

JURISDICTION AND VENUE

25 7. This Court has subject matter jurisdiction over this copyright
26 infringement action pursuant to 28 U.S.C. §§ 1331 and 1338.

27 8. This Court has personal jurisdiction over Defendant PBS because,
28 among other things, PBS has engaged in direct, contributory, vicarious, and/or
otherwise induced acts of copyright infringement in California. Plaintiffs are

1 informed and believe that Defendant PBS has engaged in continuous and systematic
2 business in California and, upon information and belief, derives substantial revenues
3 from commercial activities in California. Plaintiffs are informed and believe that
4 Defendant PBS has also engaged in a multiplicity of acts directed toward California,
5 including without limitation: soliciting and engaging in commercial transactions
6 with California users, operating highly interactive websites that permit PBS's
7 California users to view infringing copyrighted materials which are the subject of
8 this action, and using the lure of the these copyrighted materials to openly encourage
9 California users to visit these interactive websites. As a result, there is a direct and
10 substantial nexus between Plaintiffs claims in this case and Defendant PBS's
11 transaction of business with its California users.

12 9. This Court has personal jurisdiction over Defendants WOS and Travis
13 because, among other things, WOS and Travis have engaged in direct, contributory,
14 vicarious, and/or otherwise induced acts of copyright infringement in California.
15 Plaintiffs are informed and believe that Defendants WOS and Travis have engaged
16 in continuous and systematic business in California, and upon information and
17 belief, derive substantial revenues from commercial activities in California.
18 Plaintiffs are informed and believe that Defendants WOS and Travis have also
19 engaged in a multiplicity of acts directed towards California including without
20 limitation: soliciting and engaging in commercial transactions with California users,
21 operating highly interactive websites that permit Defendants' California users to
22 view content and soliciting business from California users through the highly
23 interactive website, and requesting that California residents reach out to
24 entertainment companies operating in California to promote Defendant Travis and
25 her company WOS and garner media and entertainment publicity in California. As
26 a result, there is a direct and substantial nexus between Plaintiffs' claims in this case
27 and Defendants' transaction of business with California residents.

28 10. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c)
and/or 28 U.S.C. § 1400(a).

FACTUAL BACKGROUND

11. Wheaton is a producer, theatrical agent, and publicist with over thirty years of experience in the entertainment industry.

12. As part of her work, Wheaton represents clients, whereby Wheaton performs public relations (“PR”) services on the client’s behalf.

13. Phipps is an experienced cameraman, director, writer, producer and cinematographer, who works with Wheaton, creating shows.

14. On information and belief, Travis is a consultant who purports to assist clients in navigating the international surrogacy process.

15. On information and belief, Travis is the owner of WOS.

16. On information and belief, and according to WOS's website, WOS offers a number of services to its clients, including helping select potential surrogates and/or egg donors, monitoring surrogate mothers, and providing an online system for accounting and test results.

WHEATON, PHIPPS, AND TRAVIS MEET

17. In December 2012, Wheaton and Phipps met Travis in New York City.

18. During this meeting, Travis told Wheaton and Phipps, that she wanted Wheaton to promote Travis' business, WOS, and to enhance her brand through a media outreach campaign.

19. On January 17, 2013, Travis signed a PR contract with Wheaton for PR services.

20. According to the contract, Wheaton was to create a marketing strategy for WOS, approach appropriate media outlets, and promote Travis as an interview subject.

21. The contract did not have provisions regarding intellectual property rights to any materials generated as part of the PR services.

WHEATON, PHIPPS, AND TRAVIS AGREE TO MAKE A DOCUMENTARY

22. On or about February 7, 2013, Travis told Wheaton and Phipps that she was making a trip to India to reconnect with her surrogacy contacts there, and suggested Wheaton and Phipps accompany her to film her visit.

23. Wheaton and Phipps proposed that they create a documentary on their trip and on the subject of surrogacy.

24. Wheaton and Phipps did not grant any express or implied licenses to Travis to use any photos or videos taken in India.

25. Prior to leaving for India, Wheaton began pitching the proposed documentary to Oprah Winfrey, in an effort to get Oprah to feature the documentary on her network.

WHEATON, PHIPPS, AND TRAVIS TRAVEL TO INDIA

26. From March 12, 2013 to March 18, 2013, Wheaton, Phipps, and Travis travelled throughout India, documenting their visit, setting up interviews, and organizing shots to maximize the aesthetics and usefulness of the documentary.

27. During their trip, Wheaton and Phipps took hundreds of individual videos and photographs.

28. At the conclusion of the trip, Travis repeatedly asked for Wheaton and Phipps to provide her with the footage taken, even going so far as to buy a hard drive in the airport on the way back from India for Wheaton and Phipps to put the footage onto it.

29. On March 25, 2013, Wheaton sent Travis a hard drive containing all the footage, including all videos and photographs, taken from the trip.

30. No documentary was ever created based on Wheaton, Phipps, and Travis' trip to India.

31. On April 6, 2013, counsel for Wheaton and Phipps sent a letter to Travis notifying Travis that in order to use the footage, including all videos and photographs

1 taken on the trip, Travis would need a license from Wheaton and Phipps, and absent
2 such release, any use would be unauthorized.

3 **TRAVIS AND PBS USE WHEATON'S AND PHIPPS' FOOTAGE**

4 32. On or before May 10, 2013, PBS published an episode of To the
5 Contrary with Bonnie Erb entitled “Sexual Assault; Egg Freezing; International
6 Surrogacy” (“the PBS Video”).

7 33. A true and correct copy of the PBS Video may be found at
8 [http://www.pbs.org/to-the-contrary/watch/728/sexual-assault;-egg-freezing;-](http://www.pbs.org/to-the-contrary/watch/728/sexual-assault;-egg-freezing;-international-surrogacy)
9 international-surrogacy.

10 34. The PBS Video uses at least 17 instances of the copyrighted videos
11 and/or photographs (“the Infringed Works”), taken from Wheaton, Phipps, and
12 Travis’ trip to India.

13 35. On information and belief, Travis provided Wheaton’s and Phipps’
14 footage to PBS for use in the PBS Video on or before May 10, 2013 and palmed it
15 off as her own.

16 36. On information and belief, Travis and/or PBS marked several of the
17 Infringed Works by visibly watermarking them as “Courtesy: of World of
18 Surrogacy.”

19 37. On information and belief, PBS knowingly reproduced, publicly
20 distributed, and publicly displayed the Infringed Works belonging to Wheaton and
21 Phipps on numerous occasions via at least its website without Wheaton or Phipps’
22 permission, consent, or license.

23 **WHEATON AND PHIPPS' SOUGHT COPYRIGHT REGSITRATION**

24 38. Wheaton and Phipps sought copyright registrations for the Infringed
25 Works within 90 days of the first publication of the copyrighted material. The
26 copyright registrations for both the photographs and videos are attached hereto as
27 Exhibits A and B.

FIRST CLAIM FOR RELIEF

(COPYRIGHT INFRINGEMENT, 17 U.S.C. § 501 – As to all Defendants)

39. Plaintiffs incorporate by reference all the preceding paragraphs as if fully set forth herein.

40. Plaintiffs are the owners of all rights, title, and interest in the copyrights to the Infringed Works, which substantially consist of material wholly original to Plaintiffs and which are copyrightable subject matter under the laws of the United States.

41. Defendants have directly, vicariously, contributorily, and/or through inducement infringed the Infringed Works, and unless enjoined, will continue to infringe Plaintiffs' copyrights by reproducing, displaying, distributing, and utilizing the Infringed Works, through at least the PBS Video, in violation of 17 U.S.C. § 501, *et seq.*

42. Defendants have willfully infringed, and unless enjoined, will continue to infringe Plaintiffs copyrights by knowingly reproducing, displaying, distributing, and utilizing the Infringed Works through, at least, PBS's website.

43. Defendants' acts of infringement are willful because, Defendants are sophisticated publishers of content with full knowledge of the strictures of federal copyright law and the basic requirements for licensing the use of copyrighted content for commercial exploitation, and despite such knowledge, willfully reproduced, publicly distributed, and publicly displayed the Infringed Works on, at least, PBS's website.

44. On information and belief, Defendants have received substantial benefits in connection with the unauthorized reproduction, display, distribution, and utilization of the Infringed Works, including increased the traffic to Defendants websites, increased awareness of Defendants' businesses, and increasing business for Defendants.

45. Defendants' actions were at all times performed without Plaintiffs permission, license, or consent.

1 46. As a result of Defendants acts, Plaintiffs have suffered, and are
2 suffering substantial damage to their business in the form of diversion of trade, loss
3 of profits, injury to goodwill and reputation, and the dilution of the value of their
4 rights, all of which are not yet fully ascertainable. Unless this Court enjoins
5 Defendants from further commission of said acts, Wheaton and Phipps will suffer
6 irreparable injury. Accordingly, Plaintiffs seek a declaration that Defendants are
7 infringing Plaintiffs' copyrights and an order under 17 U.S.C. § 502 enjoining
8 Defendants from any further infringement of Plaintiffs' copyrights.

9 47. As a result of Defendants acts, Plaintiffs have suffered, and are
10 suffering substantial damage to their business in the form of diversion of trade, loss
11 of profits, injury to goodwill and reputation, and the dilution of the value of their
12 rights, all of which are not yet fully ascertainable. Accordingly, Plaintiffs request
13 monetary damages for Defendants' infringement.

14 48. Because of the willful nature of the copyright infringement, Wheaton
15 and Phipps are entitled to an award of statutory damages equal to \$150,000 per work
16 infringed.

17 49. Wheaton and Phipps have identified at least 17 instances of
18 infringement by Defendants, which occurred by way of reproduction, public
19 distribution, and public display of the Infringed Works through, at least, PBS'
20 website.

21 50. All 17 of the works infringed are eligible for statutory damages.

22 51. Alternatively, at their discretion, Wheaton and Phipps are entitled to
23 actual damages in an amount to be proven at trial for the infringement of all works
24 at issue.

25 52. Plaintiffs are also entitled to their attorneys' fees in prosecution of this
26 action under 17 U.S.C. § 505.

JURY DEMAND

53. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of the, jointly and severally, as follows:

- A. For damages in such amount as may be found, or otherwise permitted by law.
- B. For a preliminary and permanent injunction prohibitng Defendants for confinuing to infringe Plaintiffs' copyrights in the Infringed Works.
- C. For prejudgement interest.
- D. For costs and attorenys' fees.
- E. Such other relief as the Court may deem just and proper.

Dated: April 5, 2016

LTL ATTORNEYS LLP

James M. Lee
Roozbeh Gorgin
Attorneys for *Wendy Wheaton and Tommy Phipps Sr.*

EXHIBIT A

Certificate of Registration

1



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Register of Copyrights, United States of America

Registration Number
PA 1-858-092

Effective date of
registration:
June 17, 2013

Title

Title of Work: Published Videos From March 2013 Surrogacy Trip to India

Contents Titles: Video-Kingsley1;Video-Kingsley2;Video-Kingsley3;Video-Kingsley4;Video-Kingsley5;Video-Kingsley6;Video-Kingsley7;Video-Kingsley8;Video-Kingsley9;Video-Kingsley10;Video-Kingsley11;Video-Kingsley12;Video-Kingsley13
Video-UKParent1;Video-UKParent2;Video-UKParent3;Video-UKParent4;Video-UKParent5;Video-UKParent6;Video-UKParent7;Video-UKParent8;Video-UKParent9;Video-UKParent10;Video-UKParent11;Video-UKParent12;Video-UKParent13;Video-UKParent14;Video-UKParent15;Video-UKParent16
Video-Hotel1;Video-Hotel2;Video-Hotel3;Video-Hotel4;Video-Hotel5;Video-Hotel6
Video-Patel1;Video-Patel2;Video-Patel3;Video-Patel4;Video-Patel5;Video-Patel6;Video-Patel7;Video-Patel8;Video-Patel9;Video-Patel10;Video-Patel11;Video-Patel12;Video-Patel13;Video-Patel14;Video-Patel15
Video-Patel16;Video-Patel17;Video-Patel18;Video-Patel19;Video-Patel20;Video-Patel21;Video-Patel22;Video-Patel23;Video-Patel24;Video-Patel25;Video-Patel26;Video-Patel27;Video-Patel28;
Video-Patel29;Video-Patel30;Video-Patel31;Video-Patel32;Video-Patel33
Video-Malik1;Video-Malik2;Video-Malik3;Video-Malik4;Video-Malik5;Video-Malik6;Video-Malik7;Video-Malik8;Video-Malik9;Video-Malik10;Video-Malik11

Completion/Publication

Year of Completion: 2013

Date of 1st Publication: March 25, 2013

Nation of 1st Publication: United States

Author

■ **Author:** Tommy Phipps, Sr.

Author Created: production/producer, direction/director, cinematography/cinematographer

Work made for hire: No

Citizen of: United States

Domiciled in: United States

Year Born: 1969

Registration #: PA0001858092

Service Request #: 1-948955361



Olavi Dunne, LLP
Matt Olavi
800 Wilshire Blvd
Suite 320
Los Angeles, CA 90017 United States

EXHIBIT B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

A handwritten signature in black ink that reads 'Maria A. Pallante'.

Register of Copyrights, United States of America

Registration Number

VA 1-876-415

Effective date of registration:

June 17, 2013

Title

Title of Work: Published Photos from March 2013 Trip to India

Previous or Alternative Title: Group registration/photos 232 photos

Contents Titles: Photo-Kingsley1;Photo-Kingsley2;Photo-Kingsley3;Photo-Kingsley4;Photo-Kingsley5;Photo-Kingsley6;Photo-Kingsley7;Photo-Kingsley8;Photo-Kingsley9;Photo-Kingsley10;Photo-Kingsley11;Photo-Kingsley12;Photo-Kingsley13;Photo-Kingsley14;Photo-Kingsley15;Photo-Kingsley16;Photo-Kingsley17;Photo-Kingsley18;Photo-Kingsley19;Photo-Kingsley20;Photo-Kingsley21;Photo-Kingsley22;Photo-Kingsley23;Photo-Kingsley24;Photo-Kingsley25;Photo-Kingsley26;Photo-Kingsley27;Photo-Kingsley28;Photo-Kingsley29;Photo-Kingsley30;Photo-Kingsley31;Photo-Kingsley32;Photo-Kingsley33;Photo-Kingsley34;Photo-Kingsley35;Photo-Kingsley36;Photo-Kingsley37;Photo-Kingsley38;Photo-Kingsley39;Photo-Kingsley40;Photo-Kingsley41;Photo-Kingsley42;Photo-Kingsley43;Photo-Kingsley44;Photo-Kingsley45;Photo-Kingsley46;Photo-UKParent1;Photo-UKParent2;Photo-UKParent3;Photo-UKParent4;Photo-UKParent5;Photo-UKParent6;Photo-UKParent7;Photo-UKParent8;Photo-UKParent9;Photo-UKParent10;Photo-UKParent11;Photo-UKParent12;Photo-UKParent13;Photo-UKParent14;Photo-UKParent15;Photo-UKParent16;Photo-UKParent17;Photo-UKParent18;Photo-UKParent19;Photo-UKParent20;Photo-UKParent21;Photo-UKParent22;Photo-UKParent23;Photo-UKParent24;Photo-UKParent25;Photo-UKParent26;Photo-UKParent27;Photo-UKParent28;Photo-UKParent29;Photo-UKParent30;Photo-UKParent31;Photo-UKParent32;Photo-UKParent33;Photo-UKParent34;Photo-UKParent35;Photo-UKParent36;Photo-UKParent37;Photo-UKParent38;Photo-UKParent39;Photo-UKParent40;Photo-UKParent41;Photo-UKParent42;Photo-UKParent43;Photo-UKParent44;Photo-UKParent45;Photo-UKParent46;Photo-UKParent47;Photo-UKParent48;Photo-UKParent49;Photo-UKParent50;Photo-UKParent51;Photo-UKParent52;Photo-UKParent53;Photo-UKParent54;Photo-UKParent55;Photo-UKParent56;Photo-UKParent57;Photo-UKParent58;Photo-UKParent59

Rights and Permissions

Name: Wendy Wheaton
Email: wendy.wheaton@yahoo.com

Certification

Name: Matt Olavi
Date: June 13, 2013
